

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into Distributed
Generation.

Rulemaking 99-10-025
(Filed October 21, 1999)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON IMPLEMENTATION
OF PUBLIC UTILITIES CODE SECTION 353.13**

On May 22, 2001, Governor Davis approved Senate Bill (SB) X1 28 (Chapter 12, Stats. 2001) which, among other provisions, adds Article 3.5 (commencing with Section 353.1) to the Public Utilities Code related to tariff requirements for customers that install electric generating equipment that meets certain requirements. SBX1 28 specifies certain changes to the existing utility tariffs. On May 31, 2001, the Assigned Commissioner issued a ruling to implement the provisions of §§ 353.3 and 353.9. These provisions were approved in Resolution E-3777, Resolution E-3778, and Resolution E-3779. The purpose of this ruling is to set forth the process to implement the provisions in § 353.13.

Section 353.13 requires utilities to modify their tariffs so that customers installing distributed energy resources, including, but not limited to, those that meet the criteria of § 353.1, will be served under the same rates as customers with similar load profiles that do not install distributed energy resources.

Section 353.13 also requires this Commission to ensure that the costs of tariff modifications resulting from these provisions are recovered only from that customer class. In many respects, the provisions of § 353.13 mirror the requirements of §§ 353.3 and 353.9, but allow the Commission to expand

eligibility beyond customers who meet the criteria in § 353.1. To be eligible for rates under § 353.3, customers must install a new generation unit between May 1, 2001 and June 1, 2003 that meets several criteria.

For purposes of fulfilling the requirements of § 353.13 on an interim basis, I propose that the utilities modify their tariffs to allow gas-fired combined heat and power applications five megawatts (MW) and smaller, and renewable resources as defined in D.02-10-062, 20 MW and smaller, who meet all the other criteria in § 353.1 to be served under the same rates as customers with similar load profiles that do not install distributed energy resources as long as the new generation unit is installed prior to December 31, 2004. These tariffs will be in effect until June 1, 2011. Consistent with the requirements adopted in Resolution E-3777, Resolution E-3778, and Resolution E-3779, the utilities should track the actual costs and benefits of distributed energy resources receiving rates under § 353.13 to achieve appropriate assignment of net costs.

I seek comments by parties about this interim approach to implementing § 353.13, and welcome alternative approaches to implementing the statutory requirement until it can be considered in the context of a full rate design application. The interim approach to implementation of § 353.13 will not supplant consideration of the utilities' standby rate design proposals to conform with the overall standby rate policies adopted in D.01-07-027. These proposals will be filed within the utilities' respective General Rate Case (GRC) or Rate Design Window Applications.

Respondent utilities shall file comments on the proposed implementation approach or alternatives to implementation of § 353.13 by January 21, 2003. Other parties are invited, but not required, to file comments on the same schedule. Reply comments shall be filed by January 28, 2003. Respondent

utilities are encouraged to meet and confer amongst themselves and other parties to develop consistent implementing approaches and language prior to filing.

IT IS RULED that:

1. Respondent utilities shall file comments on the proposed implementation approach or alternatives to implementation of § 353.13 by January 21, 2003.

Other parties are invited, but not required, to file comments on the same schedule.

2. Reply comments shall be filed by January 28, 2003.

Dated December 27, 2002, at San Francisco, California.

/s/ ANGELA K. MINKIN for

Michelle Cooke

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Implementation of Public Utilities Code Section 353.13 on all parties of record in this proceeding or their attorneys of record.

Dated December 27, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.